

Michigan Department of Civil Service

REGULATION

Appointing Authority Letter Reference: CS-6374	Effective Date: January 1, 1982 <u>August 20, 2000</u>	Index Reference: Recovery of Over-Compensation	Regulation Number: 5.015 <u>16</u>
Issuing Bureau: Merit Systems Services <u>Human Resource Services</u>	Rule Reference: Chapter 5 <u>Civil Service Commission Rule 5-3.9</u>	Replaces: 17.10 (OF) Procedure #1 issued 7-1-84 <u>Regulation 5.01</u>	
Subject: RECOVERY OF OVER-COMPENSATION			

1. PURPOSE

A. This regulation establishes standards and guidelines for the recovery of money when an employee has been over-compensated.

2. CIVIL SERVICE COMMISSION RULE REFERENCE: ~~Current rules of the Civil Service Commission provide for certification by the State Personnel Director of all payrolls and for deletion by the State Personnel Director of any payroll item which cannot be certified.~~

A. Rule 5-3.9 Approval and Disapproval of Disbursements for the Classified Payroll

The state personnel director shall certify each payroll for the classified service. Payroll certification is based on computerized payroll system edits of payroll calculations and personnel transactions and the audit of personnel transactions for compliance with civil service rules and regulations. The director shall establish edit requirements and audit procedures. The director may delete from the payroll any item that cannot be certified under this rule and shall give notice of the action, together with the reason for the action, to the appointing authority concerned.

ISSUE

~~While not a common occurrence, occasions arise when a state classified employee is over-compensated for work that has been performed. In such cases, when discovered, the Legislative Auditor General may recommend recovery of over-compensation amounts under Constitutional authority to protect the economic interests of the state. It is also the duty of Appointing Authorities and other state managers to institute rational systems for control of state expenditures. Merit Principles of the Civil Service Commission provide for equitable~~

~~compensation for state employees, as well as for fair and equitable treatment of employees in all aspects of personnel management.~~

3. STANDARDS

- A.** ~~Over-compensation of a classified employee may occur for one of three basic reasons, although the circumstances that may lead to a situation of over-compensation may be varied and involved~~result from the following:-

~~The three possible and usual causes of over-compensation are:~~

- ~~A. Clerical payroll error by the employing agency;~~
- ~~B. Fraud on the part of the employee, or~~
- ~~C. Rule violation, faulty judgment or misinterpretation by the employing agency.~~

~~Purposes of this Procedure: (1) to balance the Constitutional responsibilities and interests of the State with Merit Principles and legal concepts for fair and equitable treatment of employees, (2) to establish management's responsibility for the integrity of the payroll.~~

PROCEDURES:

A. Administrative Error

- 1. Processing Error** - If an employee has been over-compensated as a result of ~~clerical~~a payroll processing error by the employing agency, the agency may recover the over-compensation within the following provisions:

1.a. If the ~~clerical~~ error involves payroll deductions for fringe benefits, union dues, taxes or other mandatory deductions, the correction should involve all necessary action to completely correct the employee's benefit deductions, union contribution, or tax liability. The appointing authority may provide repayment plans that avoid undue financial hardship for the employee if the plans can be legally offered and do not jeopardize the individual's benefit coverage or tax responsibility.

2.b. In situations involving voluntary deductions to third parties (such as credit unions), a plan for recovery or payment should be developed on the employee's initiative with his/her approval.

3.c. In all other situations of ~~clerical~~processing error, the appointing authority ~~shall~~must notify the employee of the error and the actions required.

Employees are obliged to immediately notify the employer of any over-payment. The liability of the employee to repay ~~shall be~~is limited to 26 pay periods prior to the date of notice to the employee. The ~~Appointing Authority~~Appointing Authority ~~should~~must provide repayment plans that avoid undue financial hardship for the employee when appropriate by allowing repayment over a reasonable period of time.

2. Employee Misrepresentation - If an employee has been improperly compensated as a result of misrepresentation or fraud on the part of the employee, the enforcement action will be directed ~~toward~~ correction of the transaction and full recovery of the over-compensation. (Examples of this are false credentials or manipulation of the payroll system for personal gain.) When preliminary review indicates the suspicion of fraud or misrepresentation, the agency is advised to request investigation by the Attorney General and Auditor General. Action taken under this section ~~should~~must be based on the results of this investigation.

3. Rule or Regulation Violation or Misrepresentation by the AgencyAppointing Authority or Department of Civil Service - If the employee has been improperly compensated as the result of rule ~~or regulation~~ violation, judgment ~~error~~, or interpretation made by the ~~agency~~appointing authority or Department of Civil Service, but the individual performed in good faith ~~the duties and responsibilities~~ based on the employment agreement with the agency, action will be directed toward correction of the personnel action. ~~under the following provisions:~~

4.a. In situations involving discovery of this circumstance ~~for over-compensation~~ by parties other than the appointing authority, notice will be given to the agency of a need for correction by a certain date. Should the agency fail to act by the ordered date of correction, the Department of Civil Service will order central correction through the ~~Payroll-Personnel~~HRMN System.

2.b. In all situations of ~~this nature~~rule or regulation violation, the employee ~~should~~must be notified and the ordered adjustment to the ~~individual~~ employee's compensation ~~should~~will be limited to any compensation earned after the date for correction contained in the notice ~~of the need to modify an employment agreement~~. ~~The~~ Date for correction ~~shall~~must not precede the date of the notice.

3.c. Copies of actions of this nature ~~should be~~are retained by the appointing authority and the Department of Civil Service ~~Central Audit~~ for referral to the State Auditor General.

~~B. Nothing in these procedures shall be implied to regulate~~This regulation does not apply to situations of under-compensation in which ~~the guiding principle is to take all necessary action~~ must be taken to make necessary corrective payment to the employees ~~s-whole~~ under Department of Civil Service Regulations and any contractual provisions for compensation.

~~The Civil Service Commission has ratified provisions in some collectively bargained agreements on this issue which may differ from this rule or procedure, and which are effective for the employees in the affected unit. Administration of this issue for employees so affected is governed by the contract provisions.~~

CONTACT

Questions regarding this regulation should be directed to the Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909, (517) 335-7862 or (517) 373-7618, or MDCS@state.mi.us.

NOTE: Regulations are issued by the State Personnel Director under authority granted in the State of Michigan Constitution and the Michigan Civil Service Commission Rules. Regulations that implement Commission Rules are subordinate to those Rules.